

STEEL MANUFACTURERS ASSOCIATION

Suite 715
1150 Connecticut Avenue, N.W., Washington, D.C. 20036
Fax: (202) 296-2506

Thomas A. Danjczek
President

(202) 296-1515
danjczek@steelnet.org

July 12, 2010

Mr. Andrew McGilvray
Executive Secretary
Foreign-Trade Zones Board
U.S. Department of Commerce, Room 2111
1401 Constitution Avenue, NW
Washington, DC 20230

Re: SMA Comments on the Preliminary Staff Recommendations Regarding
the Dow Corning and REC Silicon Applications for Subzone Authority

Dear Mr. McGilvray:

The Steel Manufacturers Association (SMA) appreciates this opportunity to submit comments on the preliminary recommendations of the FTZ Board staff regarding the Dow Corning and REC Silicon subzone applications. The SMA strongly supports the staff recommendation to impose a restriction prohibiting the admission of any foreign status silicon metal subject to an antidumping or countervailing duty (CVD) order into these subzones.

The SMA is the primary trade association for scrap-based electric arc furnace steelmakers. Our 34 member companies operate 130 steel plants, account for over seventy percent of domestic steel production, and employ approximately 60,000 people. The SMA also has 129 Associate Member companies that provide goods and services to the steel industry.

As the Board knows, for years our industry has had to defend itself against dumped and subsidized imports of steel products that have injured U.S. steel producers and their workers. As a result, antidumping and CVD orders are in place that require duties to be paid on imports from suppliers that have engaged in unfair trade practices in order to offset the unfairly low prices of these imports.

Because the Dow Corning and REC Silicon applications are intended to create vehicles to escape payment of antidumping duties, they raise very serious trade policy concerns. Approval of the first application of this type, submitted by MPM Silicones, already has triggered a series of applications from consumers of silicon metal. If the Board were to approve the current applications without restriction, that action would invite more companies – including purchasers of steel products subject to antidumping and CVD orders – to submit the same type of applications for the same improper purpose.

Furthermore, as I stated at the Board's hearing, approving such applications without restriction would send the wrong message to foreign suppliers (including fair traders) not to

bother to act in accordance with trade rules because – whether you play fairly or not – there is a way that you can still ship to the U.S. free of antidumping and CVD duties. The Board must not send this message. The Board must say simply and clearly: “You violate the unfair trade laws – you suffer the consequences. Period.”

The restriction recommended by the staff is nothing new. What is new is the idea that FTZs can be used as a device for escaping payment of antidumping and CVD duties.

The Board has a policy and longstanding practice of denying or restricting authority for proposed zone activities that are inconsistent with U.S. trade and tariff law, or policy formally adopted by the Executive branch. More specifically, the Board has an express policy that zone procedures shall not be used to circumvent antidumping and CVD actions. In recommending the proposed restriction, the Board staff correctly followed the Board’s regulations and policy, taking into account the specific facts and circumstances of these cases.

Moreover, by recommending allowing these applicants to obtain FTZ benefits, while at the same time precluding them from using the subzones to undermine the trade relief protecting the domestic silicon metal industry and its workers, the Board staff proposed a fair approach to these applications that would maintain the integrity of the FTZ program, while also preventing the misuse of these subzones for an improper purpose.

For these reasons, in its final decisions on these applications, the Board should maintain the restriction recommended by its staff prohibiting the admission of any foreign status silicon metal that is subject to antidumping or CVD orders into these subzones. REC Silicon has already expressed its willingness to accept this restriction. Hopefully, Dow Corning, like REC Silicon, will recognize that it can operate its business successfully without resorting to this improper duty-avoidance tactic.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas A. Danjczek".

Thomas A. Danjczek^a
President
Steel Manufacturers Association

^a In addition to his position as President of the SMA, Mr. Danjczek is a member of the Board of Directors of Globe Specialty Metals, Inc., the parent company of Globe Metallurgical Inc.